

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

09-CR-6225L

v.

DANIAL E. WIDNER,

Defendant.

Trial in this matter is scheduled for December 5, 2011, with jury selection. The parties both filed *in limine* motions and the Court heard argument on those motions on November 28, 2011.

This constitutes my “bottom line” ruling on the motions. The Court will either submit a writing setting forth the reasons for the decision or the Court will orally place on the record those reasons.

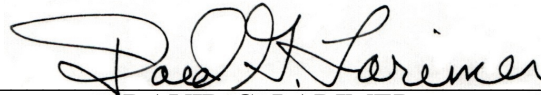
The rulings are as follows:

1. Pursuant to Fed. R. Evid. 414, the Court will allow the Government to introduce defendant’s prior conviction in Arizona of sexual conduct with a minor. The Court will grant the Government’s motion to introduce evidence of this conviction by use of a certified copy of the conviction. At least two parts of that judgment should be redacted, including reference to the offense being “aggravated” and reference to the 10-year sentence and the requirement that defendant must serve the full sentence before eligibility for release.
2. The Court will allow the Government to present evidence concerning defendant’s contact with young girls which led up to application for the search warrant for his residence. This ruling is based on the Government’s proffer on November 28 as to the limited nature of that testimony.

3. The Court denies the Government's motion to preclude the testimony of defense expert, Dr. Gary Skuse (Dkt. #80). The Court will determine if the testimony, as given, turns out to be repetitive and cumulative.

In light of rulings 1 and 2 above, defendant is to advise the Court no later than Monday, December 5, as to whether he wishes the Court to give a cautionary instruction either at the time the evidence is presented or in its instructions in chief at the end of the case or both. If instructions are requested, defendant must submit a proposed cautionary instruction as to both items of evidence. It would be of assistance if the Government also submitted proposed cautionary instructions for the Court's consideration.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 30, 2011.